

(Please note that attachments J through O are under construction, blank and left only as placeholders for future use)

INSTRUCTION GUIDE

FOR

PUBLIC SCHOOL DISTRICTS AND BOCES

OBTAINING BUILDING PERMITS

FOR

CAPITAL CONSTRUCTION PROJECTS

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Introduction

The State Education Department (SED) is charged by the Secretary of State [19NYCRR 441.2(d)] with the “administration and enforcement of the New York State Uniform Fire Prevention and Building Code with respect to buildings, premises and equipment in the custody of, or activities related thereto, undertaken by school districts and boards of cooperative educational services.”

The uniform code applies to each and every facility owned or operated by a school district or board of cooperative educational services (BOCES). This includes, but is not limited to, schools, administration buildings, bus/maintenance/garages, public school public libraries, storage buildings/sheds, press boxes, and concession stands, and also their premises (19NYCRR 444).

There are two ways SED seeks to enforce this code: (1) by requiring an annual fire inspection based on our fire inspection report process, which leads to an annual Certificate of Occupancy; and (2) by approving plans and specifications for all capital construction involving these facilities, based on procedures established by the Office of Facilities Planning, which leads to a **Building Permit**. The remaining information in this booklet pertains to those procedures. (Note: The Certificate of Occupancy process is described elsewhere in our fire inspection documents. A great deal of information about this process and other issues pertaining to capital construction projects is available on our web site (www.emsc.nysed.gov/facplan/).

Code Compliance Requirements

Building construction standards apply to all facilities owned or operated by a school district or BOCES. We define a facility as any structure that has four walls or is enclosed and can be secured (i.e., locked in some way). All buildings and structures must allow for free exiting, so that individuals cannot be inadvertently or unknowingly locked inside the facility.

A capital project includes any construction work done in or on an existing facility as well as the creation of new space (i.e., an addition to an existing facility or an entirely new facility), with the nature of the work such that it must comply with various codes and, therefore, requires a Building Permit. The Building Permit is used to assure that the work will be done properly to preserve the health and safety of facility’s occupants or users. Certain types of site work (such as field lighting) and “open structures” also require Building Permits.

An “open structure” is somehow anchored to the ground. For most open structures, individuals can climb or walk on part of the structure or can walk into a part of the structure but they cannot become locked into the structure itself. Open structures have significant design and code issues that must be addressed. Therefore, they still require a Building Permit but no Certificate of Occupancy because they cannot be locked or secured. An example of an open structure is a pavilion. (Note: Outdoor bleachers and playgrounds may require a Building Permit if they are constructed on site using plans and specifications rather than simply consisting of pre-engineered structures.)

Our tracking system for capital projects is set up on a building-by-building basis and the project control number that we assign to each project is building specific. For any individual capital project where the expected construction contracts will total \$10,000 or more, the district must make a formal submission to our office for a Building Permit.

For any capital project where the expected construction contracts will total more than \$5,000 but less than \$10,000 the governing body of a school district or BOCES must make a formal submission to our office for a Building Permit if the nature of the work requires a Building Permit or will affect the health and safety of the occupants or users of the building.

For capital projects where the construction contracts are expected to total less than \$5,000 per project, the governing body of a school district or BOCES must assure compliance with the requirements of the New York State Uniform Fire Prevention and Building Code, the Manual of Planning Standards and the Regulations of the Commissioner of Education but does not need to hire an architect or engineer and is not required to make a formal submission to our office unless the work to be done involves the health and safety of the building's occupants.

For any capital project that requires a **Building Permit** from our office, regardless of the anticipated total cost of the construction contracts, the district or BOCES must make a formal submission to our office that includes plans and specifications which are signed, sealed and certified by an architect or engineer who is licensed by the State of New York.

Uniform Fire Prevention and Building Code - Updated

Commencing on July 3, 2002, the Uniform Fire Prevention and Building Code will consist of eight documents based on the 2000 edition of the International Codes, 2001 Supplement to the International Codes, and New York Modifications. There will be a 180-day transition period, ending December 30, 2002. During this time, except for work done in accordance with the energy code, new construction may be done under either the existing code or the new code. The New York State Energy Conservation Construction Code will become effective on July 3, 2002, with no transition period.

1. Fire prevention requirements will be contained in the Fire Code of New York State.
2. Building construction standards will be found in the Building Code, Plumbing Code, Mechanical Code, Fuel Gas Code, Property Maintenance, and Energy Conservation Construction Code of New York State. The remaining document is the Residential Code of New York State, which will not normally be used in school construction.
3. Appendix K of the Building Code is a new and unique section for New York State and will apply to capital projects in existing public school district and BOCES buildings.

In addition, provisions of the Education Department's "Manual of Planning Standards," and Commissioner's Regulations, 8NYCRR 155, will still apply to these projects. There were no changes to Education Law enacted as part of the adoption of the new codes.

Commissioner's Approval of Plans and Specifications Required for Building Permits

Since January 2, 1986, all capital construction projects that were submitted to SED for review have been issued a Building Permit upon approval by the Commissioner of Education. (Note: The Building Permit should be posted at the work site prior to starting the construction work. In fact, this is a requirement that we suspect is frequently overlooked. Experience tells us that the actual Building Permit may often end up being inappropriately filed with some of the other approval documents that are issued at the same time, such as the Certificate of Approval, Bond Certificate, or Certification of Substantial Completion form.)

1. **Building Condition Survey:** During the 2000-2001 fiscal year, the districts were required to survey all of their buildings in terms of their current conditions. This

included determining what work would need to be done in the next five years to maintain or improve the condition of those facilities. Future capital projects should be based on the outcome of this survey until the next survey is completed in 2005.

2. **Long-Range Plan for Educational Facilities and Specifications:** Whereas the Building Condition Survey deals with maintaining the buildings in acceptable condition, the Long-Range Plan for Educational Facilities and Specifications is a long-standing requirement set forth in the Regulations of the Commissioner of Education (8NYCRR 155.1a) that is intended to make the districts consider the appropriateness of their facilities relative to their educational programs. Although this Long-Range Plan is on a five-year basis, the districts are required to review it and update it annually.

Any projects involving new buildings, additions to existing buildings, or significant reconstruction of existing buildings needed to achieve instructional objectives should be an integral part of this Long-Range Plan. These projects must be based upon careful and thoughtful planning on the part of the Board of Education working in conjunction with the administrative staff and teachers, as well as with the architect or engineer of record.

3. **Architect/Engineer (A/E) Services:** Plans and specifications for capital construction projects having construction costs of \$5,000 or more must be prepared, signed, and sealed by an architect or engineer who is licensed by the State of New York. This is to safeguard life, health, property, and public welfare by assuring that the application of engineering and architectural principles and data will be incorporated into the proposed project. It is also important to note that supervision of this capital construction work is required by statute (Education Law, Section 1709, subdivision 3). The district's contract with the architect or engineer of record should include this requirement for supervision.
4. **Proper Authorization:** In general, projects must be properly authorized by the voters in noncity and small city school districts at their annual meeting or by special referendum. For the Big Five city school districts, capital construction projects must be authorized by the Board of Education. There are certain projects that can be authorized by the Board of Education in noncity and small city school districts, such as those funded by sources other than taxpayer monies or those that are formally determined to be "ordinary contingent expenses" by the Board of Education.

Letter of Intent (LOI) Forms

We have four different Letter of Intent (LOI) forms available on our web site. One of these forms is used to establish projects for new buildings, additions to existing buildings, or reconstruction work to be done in or on an existing building. This form does have a continuation sheet that may be duplicated to accommodate as many of these types of projects as the district is proposing to do.

A second LOI form is used to set up projects dealing with leasing building space off school district property (Temporary Quarters) or buildings that have been constructed or placed on school district property without first obtaining a Building Permit from our office (Discovered Buildings). This form also has its own continuation sheet to accommodate more than one project.

A third LOI is for setting up projects that deal with placing manufactured buildings on school district property. It is not legal to place these pre-manufactured structures or trailers on school district property without first obtaining a Building Permit from our office. Such facilities must be properly sited and usually they must be publicly bid. (Note: The individual units involved in these projects are often referred to as “portables,” “modulars,” or “relocatables.” They are considered by our office and by the codes to be the same as traditionally constructed buildings and, as such, they require proper siting, foundations, utilities, etc. Therefore, they cannot initially be placed on school district property, or moved from one spot to another on district-owned property, without first obtaining a Building Permit from our office.)

The LOI form for manufactured buildings does not have a continuation sheet, so separate copies of this form must be completed for each manufactured building that the district wants to put onto their property. This same form must also be used when the district wants to move an existing unit to a different spot, even if the unit is going to be used for the same purpose after it has been moved.

It is important to note that for manufactured buildings, a “building” is defined by how these units are to be set up or configured. For example, if the district wants to purchase or lease two manufactured building units, they would be considered to be two separate buildings if they are set up any distance from each other on the same site or at different school sites. However, they would be considered to be a “single building” if they connected to each other with common ramps or passageways.

The fourth LOI form is used only for setting up district-wide projects. This form does not have a continuation sheet and must be completed for every district-wide project that the district proposes to do. The definition of what we consider to be appropriate district-wide work is included on the form itself. The work involved in this type of project must connect all of the buildings involved in the project in some way, such as a district-wide telephone system, and must include a majority of the instructional facilities in the district.

The use of these LOI forms has greatly helped the support staff in processing the required paperwork. These forms are designed to provide all of the pertinent information needed to set up the appropriate project control numbers for our Project Management Information System. This system is the key to tracking all projects and the 15-digit project control number assigned to each project is critical to all of SED’s internal processes and procedures relative to school district capital construction proposals.

Please note that these LOI’s are processed by our support staff and not by the project managers. Therefore, if the district has a question about why an LOI has not yet been processed, they should contact our office and ask to speak to the person who is presently setting up the projects in response to the LOI forms.

We recommend that the districts fax these completed forms to our office (518 486-5918). It is not necessary to include a cover letter or even a cover sheet. If you do fax the LOI forms, please do **not** send duplicate copies by mail.

The LOI forms are processed in the order in which they are received but are not processed on a daily basis. Therefore, if there is a specific reason that the district needs to have a

project control number(s) established as quickly as possible, the district should discuss this situation with a project manager.

In response to each LOI form received in our office, the district will receive a response letter indicating the 15-digit project control number assigned, the name of the project manager who will be handling the project, and identifying the project by the name of the building on our records and the type of work involved. The letter will also indicate or be accompanied by an attachment informing the district what forms are required for submission. All of these forms are now available on our web site and can be downloaded or copies printed as needed. In the past, the September 1995 edition of this instruction guide was enclosed with every response to an LOI. That practice has been discontinued but the latest version of this document will be maintained on our web site.

For projects proposing the construction of new instructional buildings or additions to instructional buildings that include new regular or interchangeable classrooms, the district will be asked to send a preliminary submission at least six months prior to sending the final submission. As the vast majority of projects that we approve do not require preliminary submissions, you will find the section explaining what is required for a preliminary submission under Attachment A in this document.

Tracking Capital Construction at the District Level

We strongly recommend that the district set up a system for tracking their capital projects from the beginning (the LOI form) to the end (the final cost report). It is imperative that someone at the district level be held accountable for the filing of all documents relative to each project in such a manner that the district will always be able to trace the action taken on each capital project and be able to determine the status of each project at any particular point in time.

The key to tracking these projects is the 15-digit project control number that we assign to each project. The first 8 digits of this numbering system represent what we call the BEDS (Basic Educational Data Systems) code. Those 8 digits are broken up in pairs of 2 digits each and identify the district itself. The first 2 digits represent the county in which the district is located, and the other 6 digits serve to identify the specific district or BOCES (i.e., each district has its own unique set of these first 8 digits).

The next 4 digits (that is, digits 9 through 12 of the 15-digit project control number) represent the number that our Fire Safety Unit has assigned to a particular building. The first digit of this sequence is set out by itself so we can easily determine the type of building involved. For example, a “zero” represents an instructional facility, a “one” represents an administrative facility, a “five” represents a bus garage, etc. Every building owned or used by a district has its own 4-digit code and this appears on the Certificate of Occupancy for the building as well as on the annual fire inspection reports. (Example: If the number 0002 was assigned to a building it would be shown as –0-002- in the 15-digit project control number; the –0- would identify the building as an instructional facility and the –002- would mean it was building #2.)

The last three digits of the project control number (digits 13 through 15) represent the specific project set up for the proposed work. In addition, project numbers are usually assigned in sequential order. For example, if that number is shown as –003, it would most likely mean that this was the third project set up for work to be done at that particular building since we began our Project Management Information System of tracking projects.

While a district may be confident that the architect or engineer hired to design the work of a capital project (i.e., the plans and specifications) is fully competent, it is usually a serious mistake for a Board of Education and/or Superintendent of Schools to rely solely on that consultant to handle all of the paperwork required to get the project done properly.

Based on our experience, we firmly believe that the business official of the district should always be involved with the Application for Examination and Approval of Final Plans and Specifications (form FP-F) prior to submitting it to our office to assure that the financial information on the form (such as the source of funding to be used and the date those funds were authorized) is accurate. Since the information on this form will be used as the basis for the initial Notification of Building Project form (SA-4) that is sent by the Office of State Aid to the district and will be used for calculating Building Aid, it is imperative that this information be correct at the outset.

As a final word of caution, the Board of Education may delegate the various activities, and the commensurate authority needed to carry out those activities, for a successful capital project to anyone they choose. However, the responsibility to assure that proper procedures are followed throughout the entire capital project ultimately remains with the Board of Education.

Architectural or Engineering Services

If the district is seriously considering a capital construction project(s), the district must hire an architect or engineer (A/E) who is licensed by the State of New York to prepare the plans and specifications for the work to be done. This architect or engineer (A/E) should be hired early in the process of determining exactly what work the district needs to have done or should have done to meet their educational goals. The district may hire a specific individual or a firm offering architectural or engineering services. Such services are considered consultant in nature and need not be publicly bid.

Districts will often prepare a Request for Proposal (RFP) to obtain the specific services that they anticipate needing from the A/E throughout the entire project — that is, from inception to filing of the final cost reports. For a successful and smooth process, the district must assure that the A/E they choose can deliver the appropriate services and has a good knowledge of the procedures followed by SED.

Services the district may contract for could range anywhere from producing the plans and specifications to putting the entire submission package together; preparing the contract documents; or providing full oversight of the construction itself and completing the final cost report. In any event, the district will remain ultimately responsible for the proper execution of the entire capital construction process.

The A/E must prepare the technical plans and specifications for the work, including the General and Special Conditions of the Contract. These conditions establish contractual responsibilities and rights of the parties to the contract, including payment provisions, requirements for protection of persons and property during the construction period, insurance, warranties, arbitration procedures, and termination provisions. The A/E also assists the district in preparing the Instructions to Bidders; may assist the district in preparing the Advertisement for Bids; advises the Board of Education concerning bids that are received; and assists in drawing up the contract between the Board of Education and the contractor(s). The A/E must also prepare any required addenda or subsequent change orders.

To obtain a Building Permit(s), a district or BOCES must send a final submission to the Office of Facilities Planning. The final submission consists of a single package that includes all of the required documents specified later in this booklet.

Only complete final submissions are reviewed by the architects and engineers in our office and approved by the Commissioner. The final submissions are initially checked by a support staff person in our office to see if the documents required have been sent. Those submissions are then logged in under the project manager's name and given to the appropriate project manager for further scrutiny. When the review of a final submission reveals that additional or supplemental information is needed, the project managers will contact the appropriate individual (usually the A/E of record). The project managers rarely have time to contact both the A/E of record and an official in the district or BOCES. Therefore, it is extremely important that the district stress to their A/E the importance of letting the district know when the A/E has been contacted by our office and for what purpose.

A district cannot legally advertise for public bids on capital construction projects until the plans and specifications for the project(s) have been formally approved by the Commissioner and a Building Permit(s) issued. It is very important, therefore, to allow as much lead time as possible for our office to review and approve your projects.

Long-range planning is most helpful in this regard. For example, final submissions that do not reach our office until our historically busy spring months will not receive the necessary Building Permits in time for summer construction. Under normal conditions, complete submissions received by March 1 would be reviewed and approved by July 1. There is, however, no guarantee as to how long it will take for projects to be reviewed by our A/E's. We strive for a review period of four to six weeks, but due to a staffing shortage combined with increased school construction projects during the past two years, our review period has been as high as 8 to 10 months.

A district can help us do quicker reviews by reducing the number of separate submissions sent to us for approval. This will, in turn, reduce our office processing time. We would like the districts to include in a single submission as much of the work planned to be done as possible. For example, it helps if you include work to be done in several buildings in a single submission. Please note, however, that while a submission may include several buildings, each project is building specific and each project will be issued its own Building Permit.

A district should exercise special care to avoid so-called "phased" construction whereby different parts of work in the same building to be done at different times within the same calendar year are submitted as separate projects. This creates much more duplication of work and effort on everyone's part and simply is not necessary since a Building Permit is valid for two years from the date it is issued. Building Aid will not be allowed for more than one "phase" under these circumstances.

State Environmental Quality Review Act (SEQRA) Requirements

Before taking any formal action on a capital project, the Board of Education, acting as lead agency, must satisfy the requirements of the State Environmental Quality Review Act (SEQRA). In the opinion of SED, this "formal action" includes the scheduling of a vote. According to the SEQRA regulations (Section 6NYCRR617.2), a lead agency is "principally responsible for undertaking, funding or approving an action, and therefore responsible for

determining whether an environmental impact statement is required in connection with the action, and for the preparation and filing of the statement if one is required.”

As of September 1, 2001, SED stopped acting as “lead agency” for school districts and instead became an “involved agency” for the SEQRA process. In accordance with Section 6NYCRR617.2 of the SEQRA regulations, an involved agency is defined as an “agency that has jurisdiction by law to fund, approve or directly undertake an action.” As an involved agency, we must receive copies of all SEQRA documents used by the district to make the final determination as to the type of action for each capital project proposed by a school district. All of those documents should include the 15-digit project control number assigned by the Office of Facilities Planning and contained in the letter of response to the Letter of Intent (LOI) forms sent by the district to our office for the establishment of capital projects on our records.

When our office reviews submissions of plans and specifications for the issuance of a Building Permit or for preliminary review to determine aidability, we will look for documentation to verify that the final determination under the SEQRA process was made by the district. This will usually consist of a copy of the actual Board of Education resolution for a Type II Action (i.e., generally reconstruction work or a very small addition to an existing building of less than 10,000 square feet) or the Negative Declaration or Statement of Findings that was issued by the district (i.e., generally for new buildings or additions exceeding 10,000 square feet) in order to verify that the SEQRA process was complete prior to the date of authorization.

For every project received in our office on or after September 1, 2001, we are requiring a relatively new form entitled, “Scope of Proposed Project.” That form took the place of the three forms we used when acting as lead agency—the Project Description form, Environmental Assessment form, and Notice of Determination Worksheet. In addition, a new form entitled, “SEQRA Clarification Form” may also be required for project submissions involving work items that were previously cleared by SED under a different project control number when SED acted as lead agency. All of our forms required for a formal project submission, can be found on our Internet web site (www.emsc.nysed.gov/facplan/).

State Historic Preservation Office (SHPO) Requirement

There is another procedure that must be followed by the school district as lead agency. In order to fulfill SED’s responsibilities under Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law, we must assure that the State Historic Preservation Office (SHPO) has been consulted regarding any proposed construction in order to protect the State’s historic and archeological resources. SED must do this whenever we are involved in approving a capital project for funding with public monies. Therefore, we now require, as part of the submittal package, evidence that the district has initiated contact with SHPO seeking their advice as to whether historic or archaeological resources will be impacted and, if so, how any substantial adverse impacts can be avoided or mitigated. This applies to renovation work involving any building that is more than 50 years old, as well as for proposed new buildings or additions to existing buildings.

If an adverse environmental impact cannot be avoided or adequately mitigated, an agreement must be reached between SHPO and the district, if possible. SHPO’s final correspondence should be forwarded to the project manager in our office and any agreed upon mitigation methods must be appropriately incorporated into the final design of a project before

we can issue a Building Permit. For this reason, it is highly recommended that SHPO be contacted as early in the planning process as information is available. Failure to do so could substantially alter a project's timeline.

For final submissions, if SEQRA was cleared by SED prior to September 1, 2001, and nothing in the project scope has changed significantly, submit the SHPO correspondence as detailed above. However, if a Draft Environmental Impact Statement (DEIS) was completed prior to September 1, 2001, and included SHPO as an interested agency, then no further SHPO correspondence would be required.

Documents for a Complete Final Submission

Most projects submitted to our office will require only a final submission to obtain a Building Permit. However, if a project involves the construction of a new instructional facility (i.e., a school), or the addition to an existing instructional facility, then the district will be directed to make a "preliminary submission" prior to the final submission. The letter returned to the district or BOCES in response to an LOI will clearly indicate if a preliminary submission is being requested. (Note: The project manager has the authority to waive a preliminary submission and the district should contact the project manager named in the response letter if they feel that such a waiver would be appropriate.) The explanation of what constitutes a preliminary submission and when it should be submitted may be found under Attachment A.

Following is a list of the documents that constitute a complete final submission for projects requiring a Building Permit. Again, to help in expediting the review process in our office, please be sure the submission package for each project is complete and in the following order:

1. **Checklist for Application for Building Permit and Examination and Approval of Final Plans and Specifications** — One copy of this form should be completed and sent with the final submission package for each project. Basically, if all of the items are checked off properly on this form, then the submission should be complete and the project manager should be able to get the entire submission in our system to await review as soon as possible. This form is as much for our use in assuring that the submissions are complete as it is for the district to check on the completeness of submissions put together by a designated third party, such as the architect or engineer of record.
2. **Scope of Proposed Project** — One completed copy of this form must be submitted for each project. If applicable, a copy of the Board of Education resolution making the SEQRA determination must be attached.
3. **SEQRA Clarification Form** — Submit one completed copy of this form as needed. This is required only if SEQRA has been cleared by SED under a different project control number. Be sure to include a copy of the appropriate documentation that proves the specific work being proposed was previously cleared under SEQRA.
4. **Application for Examination and Approval of Final Plans and Specifications** — One copy of this form must be completed for each project. Be sure that the correct date of authorization and source of funding is indicated and that the estimated costs of the work broken down by category of expenditure on the back of the form agrees with the total amount of funding shown on the front of the form. Also, be sure that the totals add up correctly for the funding and the estimated costs, and that the anticipated date of substantial completion has been entered. (Note: If RESCUE funds are to be used as a source of funding, the district must indicate the amount to be used from either or both

RESCUE 1 and RESCUE 2 appropriations.) We strongly recommend that the district's business official review this form prior to submitting it to our office as part of the capital construction package.

5. **Evaluation Existing Building form** — A copy of this form must be submitted for each project dealing with an existing instructional facility. These buildings must conform to the minimum health and safety requirements found in Section 155.7 of the Regulations of the Commissioner of Education. This form relates directly to those regulations and is used to evaluate the future compliance of a school building with these regulations at the completion of the capital project being proposed. It is required for any project involving work in or on such a building. Work to correct any non-conformances must either be part of the plans and specifications being submitted, or a letter signed by both the Superintendent of Schools and the architect or engineer of record must be part of the submission package, and it must clearly explain why each of the non-conforming items will not be addressed in the current project as well as when the non-conformance will be corrected. (Note: This form must be signed by the architect or engineer of record based on a recent analysis.)
6. **Highway Letter(s)** — For each project, the district must notify the local highway authority of the expected affect the proposed work will have on the permanent entrances and exits to public highways, the expected need for temporary entrances and exits to public highways to be established during the construction period, and the anticipated affect the work will have on the existing storm drainage system. (Note: There may be more than one local highway authority to be notified so there may be more than one highway letter per project. However, all the project control numbers included in a single submission may be included in each individual highway letter as long as one copy of that highway letter is provided for each project included in the submission.)
7. **Asbestos Letters and Certifications** — For each project the architect or engineer of record must certify to two different things regarding asbestos-containing building materials (ACBM). First, there must be a certification in a letter format that the work of the project will not involve any new ACBM. Second, there must also be a certification of one of the following: (a) the work of the project will not involve any known or suspected ACBM as evidenced by bulk or destruct testing, or (b) the work of the project will involve ACBM. If the certification is (b), then the A/E would also have to provide asbestos abatement specifications and plans, as needed, and would have to certify that the plans and specifications comply with Industrial Code Rule #56 as well as the other requirements. (Note: This certification should appear on the cover of the specifications book. The architect or engineer who signs and seals the asbestos plans and specifications must have taken and passed a New York State Department of Labor course for Abatement Project Designer. The same architect or engineer must design the work and a copy of the current designer's license, showing his/her picture and the expiration date of the license, must be included as part of the submission package. A copy of that license should also be bound into the specifications book, preferably in the front near the certifications.
8. **Structural Responsibility Checklist** — This form must be submitted for each project. We realize that with the complexity of capital construction today, no one person is truly qualified to design all aspects of certain projects. In fact, the architect or engineer of record is generally not the only design professional involved in creating the plans and specifications for the work to be done. Even large design firms are subcontracting portions of the construction design documents. The Structural Responsibility Checklist, is used by our office to track which professional is responsible for the various parts of a construction design. Our technical reviewers have found the information on this form to

be extremely helpful during the review process. Without the information obtained from this form, some districts have encountered additional costs during the design phase for subsequent projects which could have been avoided. This information would also be valuable to the district in any instance where litigation becomes necessary.

9. **Code Compliance Checklist** — One copy of this form must be completed and included with every final submission package for obtaining a Building Permit. This form must be completed after the contract documents are assembled. Notations on this form must indicate, as appropriate, the page or drawing number where each item can be found. The first page of this three-page form has fifteen “required” items that must be provided, by law, for all contracts. (Note: The Excel version of this form on our web site includes pop-up comments that give exact wording and explanations of the information that must be provided. The pop-up comment is revealed when you move the cursor over the red arrow. If you right click on the red arrow you can block the information and copy it for use in your documents.)
10. **Complete Plans and Specifications** — A single set of complete construction drawings (black or blue on white) and specifications which incorporate **all** applicable requirements of SED’s “Manual of Planning Standards,” the New York State Uniform Fire Prevention and Building Code, the Energy Conservation Construction Code, and, if applicable, Industrial Code Rule #56, must be submitted for approval. Such drawings and specifications must be as complete and detailed as necessary to perform the work, whether the work is going to be done by private contractor(s) or by district personnel.

Each drawing and the cover sheet of the specifications must be signed and sealed by the A/E of record as well as any other A/E who has designed part of the project. The wording of the certifications must appear on the cover sheet of the specifications stating that to the best of the architect/engineer’s knowledge, information and belief, the plans and specifications for the project are in compliance with all applicable provisions of the New York State Uniform Fire Prevention and Building Code, the New York State Energy Conservation Construction Code, and the New York State Education Department’s Manual of Planning Standards. If asbestos work is anticipated as part of the project, then the certification statement must include Industrial Code Rule #56.

Specifications must be in the format of the Construction Specification Institute (CSI) standards and must include an “equivalency clause” (typically included in the “Instruction to Bidders” section), a non-collusive bidding certification (in the “Form of Proposal” section), a copy of the prevailing wage rates from the New York State Labor Department, and all of the requirements for safety during construction in accordance with the Commissioner’s Regulations. All four of these items should be paper clipped in the specifications book(s) when the final submission is sent to our office for review and approval. (Note: We will accept a copy of the formal application for wage rates that is sent by the district to the NYS Department of Labor, which should be bound into the specifications book where the actual prevailing wage rates should appear, if the district has not received the actual set of wage rates before the final submission is ready to be sent to our office.)

A sample of an acceptable “equivalency clause” is as follows:

“Where two or more kinds, types, brands, manufacturers, or materials are named in these specifications, they are to be regarded as the required standard of quality and are presumed to be equal. The contractor may select one of these items or, if the contractor desires to use any kind, type, brand, manufacturer, or materials other than those named in the specifications, the contractor shall indicate in writing, when requested, and prior to the award

of contract, what kind, type, brand, manufacturer or material is included in the base bid for the specified item.”

IMPORTANT NOTE: In accordance with the Regulations of the Commissioner, Section 155.5—Safety During Construction and Maintenance Activities, when the work of a construction project will be done on or in an existing building which will continue in normal operation during the construction phase, plans and specifications must assure that the areas where the work will be done are completely isolated from the occupied portions of the building and that precautions are taken to assure that any operations or hazards in the work areas will not affect the occupants of the building. In addition, existing exiting features of the occupied portions of the building must be continuously maintained or alternative exits provided; and existing fire safety systems (such as fire alarm, fire detection, exit and emergency lights) must be continuously maintained or provisions made to ensure equivalent safety for the occupants; and the fire department must be notified of any non-operating systems.

11. **Documentation that SHPO has been notified, if applicable** — If the building involved in a capital project is at least 50 years old or the project involves the creation of new space, then the New York State Office of Parks, Recreation and Historic Preservation must be notified of the proposed construction. In order to enter a project into our system for obtaining a Building Permit, we must have documentation to prove that SHPO (the State Historic Preservation Office) has been contacted, such as a copy of the letter that was sent to that office by the district. (Note: Before our office can actually issue a Building Permit, we will also have to have a copy of any response from SHPO regarding the proposed construction.)
12. **Certification of Final Building Plans** — This form is required for new instructional facilities or additions to existing instructional facilities, including manufactured buildings, and was developed to help the project managers compute the changes in the Building Aid Units calculated using the floor plans that were included in the preliminary submission as opposed to the floor plans included in the final submission. Ideally, the floor plans should be identical in the preliminary and final submissions for a new building or addition project. However, we know that there are often changes made to the preliminary plans we reviewed before the final plans are completed. Any changes to instructional spaces on the preliminary floor plans must be evaluated by the project manager to determine possible changes in Building Aid Units prior to putting the final plans and specifications into our system for review and approval. When completed properly, this form is very helpful to the project manager in reconciling the final floor plans to the preliminary floor plans.

Facilities Planning Review and Approval Process

The final submission packages are almost always put together and sent directly to the attention of the appropriate project manager in our office. When those final submissions are received in our office, one of our support staff will do an initial review of the documents to see if any required form is missing and will send an e-mail to the architect or engineer of record asking for the specific document(s) to be faxed as soon as possible.

The support staff person then enters information about each submission on a log sheet and that sheet is given to the appropriate project manager. The project manager will not complete the review of a submission until all documents required have been received. The project manager will then carefully review each document in the final submission to see that all required information is available and appears to be correct. If not, the project manager will contact the architect/engineer of record and/or the contact person for the district to obtain additional information as needed.

When the project manager is satisfied with the completeness and accuracy of the final submission, it will be, as we say, “put into the system” for review and approval. Please note that a single final submission package may include any number of individual projects. The final submission package will not be put into our system for review and approval until all projects included in the final submission are complete and accurate. It is also important to note that the project manager will contact the architect or engineer of record and set the whole submission aside until the missing information is received.

When we say that a project has been “put into the system,” it means that a project or projects that were sent as a final submission package have been entered into a log book and are awaiting review by our own staff architects and engineers. Every project requires both an architectural (construction) and engineering (mechanical) review. There is a status report available on our web site that will show the current review status of all projects entered into the system for review as soon as one of our support staff has assigned the project a review number.

As soon as projects are entered into the log book by the project manager, they are in line for review by our architects and engineers even if review numbers have not yet been assigned to them. Projects are assigned review numbers sequentially and in the order they are entered into the log book.

We do maintain a separate list of very simple projects (i.e., usually involving only one CSI code) that are ready for review. These are referred to as “quick reviews.”

We also accept “site review” submissions that are part of a larger project for which the district can clearly demonstrate a savings in costs or time by dividing the project in such a way. This allows the district to obtain a quicker approval of just the site work that must be done before the actual construction of an addition or new building can take place. The review and approval process for this type of “site work only” project is also considered a “quick review.”

The reviews by our architects and engineers of projects entered into our system do not take place simultaneously. The architects and engineers will simply pick up the next available final submission that requires their particular area of expertise to be reviewed. For quite a long time, the architects have been ahead of the engineers in doing our reviews since there have been twice as many architects as engineers on our staff. It is often difficult if not impossible to calculate an estimated review period for any particular project.

As the reviews of any particular project are completed, the status report on our web site will indicate “done” under either a column headed “Construction” or “Mechanical.” When both reviews are completed, the Building Permit will be issued and the date of approval will also be indicated on that status report.

Upon approval, our office will send the district or BOCES a set of final approval documents, including the **Building Permit**, for each approved project; a Bond Certificate, when required; a Certificate of Approval of Plans and Specifications; a Certification of Substantial Completion form; and any other documents necessary for final inspection and certification.

A Building Permit will be issued for each approved project and must be prominently posted at the work site prior to starting the actual construction.

The district may not advertise for public bids until our office has reviewed and approved the plans and specifications. After approval, we will issue a **Building Permit**, and formally record the approval of the Commissioner of Education for every project.

Districts must obtain duplicate copies of the approved plans and specifications, along with all approved addenda, from their architect or engineer of record and retain those documents in their permanent files.

Changes to Plans and Specifications

SED must approve all revisions to construction drawings and specifications after they are submitted to us for obtaining a Building Permit. These changes may be in the form of addenda during the approval process and prior to public bidding. However, such revisions must be in the

form of change orders after the bids have been accepted and contracts have been awarded, and throughout the course of the actual construction work.

We now require only one copy of addenda and executed change orders. These changes are not effective until reviewed and approved by our office. We no longer return a copy of the approved change orders to the district, but we record the status of all change orders on our web site.

At the time of substantial completion of the project (see definition below) and before use or occupancy of new space, the A/E of record must certify that the work has been done in accordance with the plans and specifications we approved. Therefore, it is incumbent on the A/E to make periodic observations over the course of the work as deemed necessary to allow the A/E to make such certification. This supervision of the construction work is required by Section 7209, Subdivision 3, of the Education Law. Dependent on the scope of the work of the project, this may include observations prior to the covering or enclosure of excavations, including building location and site preparation, and prior to pouring foundations as well as the following observations:

- superstructure — framing; structural steel; reinforced concrete, prior to pour;
- plumbing, including required tests;
- electrical systems, including required tests;
- mechanical systems, including required tests.

The point of “substantial completion” is a specific, defined time. The definitions provided by the American Institute of Architects (AIA), the National Society of Professional Engineers, the American Consulting Engineers Council, and the Construction Specification Institute (CSI) are essentially the same. The AIA definition is: “The Date of Substantial Completion of the Work or designated portion thereof is the Date certified by the Architect when construction is sufficiently complete, in accordance with the contract documents, so the Owner can occupy or utilize the Work or designated portion thereof for the use for which it was intended.” As a licensed design professional, the A/E of record hired by the district should be able to determine this specific point in time.

When, on the basis of an inspection by the A/E, the work is considered to be “substantially complete,” the A/E must complete the Certification of Substantial Completion form (which was sent to the district with the Building Permit and other approval documents) and send the original to our office and a copy to the district. This form, in essence, states that the work was done in accordance with the documents we approved and, hence, is in compliance with all applicable codes. Altered forms will not be accepted.

For a new building or addition, the district must have a formal fire inspection done of the entire facility as soon as possible following the completion of the Certification of Substantial Completion form by the A/E. The total building must be inspected, using the same reporting form as used for the annual fire inspection, and the completed report is sent to our office. Upon receipt of a satisfactory report (i.e., with all essential information provided, no non-conformances, and appropriate signatures on the last page of the report), a Certificate of Occupancy will be issued which will “bridge” to the date of the regular annual fire inspection and to the date of the Certificate of Occupancy (C.O.) that results from the annual inspection.

The C.O. must then be posted on the appropriate building in a conspicuous place and the new building or the addition to the existing building may then be occupied (i.e., used for its intended purpose).

Note: Occasionally a district may have a project approved that proposes to build more than one addition onto an existing instructional facility (i.e., a school). If one addition is completed before another addition to the same building is substantially complete, then the

district's A/E of record may file a Certification of Substantial Completion form with notations on the bottom of the front side of the form clearly indicating which part of the project has been completed and is ready for occupancy, along with a Fire Safety Inspection Report for the entire building (i.e., the existing portion as well as the completed new space). The Fire Safety Unit will then be able to issue a C.O. for the completed new space and the A/E will have to file another Certification of Substantial Completion form along with another Fire Safety Inspection Report when the entire project is deemed to be "substantially complete."

Building Permit Process

ATTACHMENT A

Preliminary Submissions

If a proposed project involves the construction of a new instructional facility (i.e., a school) or an addition to an existing instructional facility, including manufactured buildings, the district (or BOCES) will be informed in the letter of response to their Letter of Intent (LOI) that a preliminary submission will be required. (Note: Even though the response letter will always indicate the need for a preliminary for these projects, in reality we will not usually require a preliminary submission for an addition that will be less than 10,000 square feet. If you feel it may be appropriate to request a waiver of the preliminary submission, please contact the assigned project manager to discuss the issue.) Preliminary submissions are also required when the district or BOCES intends to purchase or acquire an existing building to be used for instructional purposes which is not on the district's property or not currently owned by the district.

The requirement for a preliminary submission is over and above the normal requirement for a final submission. Also, this is not a statutory requirement but is a requirement of the Office of Facilities Planning. The project managers in the Office of Facilities Planning, and the Coordinator of this office, have the authority to waive a preliminary submission.

At certain times in the past our office has been overwhelmed with final submissions and we have decided to suspend formal technical reviews of preliminary submissions. This does **not** mean that the project managers have waived the requirement for the preliminary submissions. It merely means that our technical reviewers (i.e., the architects and engineers in our office who review final plans and specifications) do not have the time to formally review preliminary plans and outline specifications. The project managers will still need the preliminary submission documents in order to calculate Building Aid Units applicable to the proposed construction and the eligibility of the project for Building Aid. (Note: The project managers review the proposed floor plans and other required documentation to determine if the educational needs of the projected number of students will be met and that the district is not over-building based on its educational programs and projected student population.)

At the present time, our office has suspended the formal technical reviews of preliminary submissions. However, there may be some proposed projects that would benefit from at least an informal review by one of our architects, such as projects encompassing specific types of work—such as connecting links between buildings, extensive subdivision of existing rooms, and modifications or accommodations being made for the disabled. Districts or their architects or engineers of record are welcome to take the initiative in contacting our office and discussing such projects with one of our architects.

For all projects that require preliminary submissions, the project managers would greatly appreciate receiving preliminary submissions well in advance of the anticipated time for sending in the final submissions. We need as much lead-time as possible to review the preliminary documents and calculate the Building Aid Units. Ideally, we would like the district to send the preliminary submissions directly to the assigned project manager as soon as the final decision is

made by the district as to what may be built and well before the district plans to put the resolution before the voters. This could mean a year or more prior to when the final plans and specifications will be completed.

Obviously, certain rooms on the floor plan might change between the time of the preliminary review and the time the final submission is sent. For this reason we have developed a form to help us discern those differences and expedite getting the final submissions into our system for review. That form is called “Certification of Final Building Plans” and is available on our web site.

All preliminary submissions must include the following documents:

1. **Application for Examination and Approval of Preliminary Plans (form FP-P)** — One copy of this form must be completed and included as part of the preliminary submission for each project. This form is very similar to the Application for Examination and Approval of Final Plans and Specifications (form FP-F) which must be included in the final submission package. In fact, the same information is required regarding the expected funding and estimated expenditures and is in basically the same format. We find that the financial information presented on this form is usually identical to that on the FP-F form.
2. **Evaluation of Existing Building (form EEB)** — Except for the Big Five city school districts, if the project involves an instructional facility then the districts and BOCES must complete one copy of this form and include it as part of the preliminary submission. If the last question on the back of this form (Question #51) cannot be answered as “Yes,” then a letter must be submitted with the form, signed by the Superintendent of Schools and the architect or engineer of record, specifying how and when each of the non-conformances will be corrected.
3. **Preliminary Floor Plans** — One set of schematic floor plans for the entire building showing the way it is intended to be used at the completion of the project for instructional purposes must be included as part of the preliminary submission. These plans should be at a scale that is clearly legible and must show all floors, including the basement, as well as corridors, stairs, ramps, smoke zones, door opening swings, and windows. The square footage and use of all spaces should be clearly designated and the existing portion of the building versus the new space, if any, to be added should be distinguishable. The total gross square footage of the entire proposed building, as well as the square footage of the existing space versus the new space, should be included on the drawings.
4. **Site Plan** — One plan of the entire site should be included in the preliminary submission. It should denote walkways, roads, parking areas (including accessibility) and indicate features of the site such as streams and slopes. The site plan should also indicate utilities (gas, electric, sewer, and water), areas of the site to be developed (such as playgrounds, parking lots, and athletic

fields), and show the footprint of all buildings or structures already on the site or to be constructed or placed on the site (such as storage sheds, press boxes, and bleachers).

5. **Facilities Needs Assessment Summary** — The requirement that each district prepare a five-year Long-Range Plan for their educational facilities, and that it be updated annually, has been part of the Commissioner’s Regulations, Part 155.1, for many years. In the past, we have requested an updated copy of this entire long-range as part of a preliminary submission regarding proposed new instructional facilities or additions to existing instructional facilities. We found that we were receiving voluminous plans, and most of these long-range plans contained very little information about the proposed project(s). We, therefore, changed our requirement and instead we now require a Facilities Needs Assessment Summary, including appropriate enrollment projections, to be sent as part of a preliminary submission. A description of the content we require for this summary may be found on our web site (www.emsc.nysed.gov/facplan/) under “Forms and Checklists.”
6. **Outline Specifications** — When a formal technical review is done for a preliminary submission, we also request one set of outline specifications. This could consist of a specifications document or notes and detail sections on drawings describing at least the following: construction classification type, exterior and interior walls, floors, ceiling and roof materials, hardware functions, public utilities, Energy Code Design criteria, and building systems, such as plumbing (supply and waste), HVAC, electrical, lighting (switching pursuant to the Energy Code), communication, signal and detection systems. Any unique features of the building or systems should be described in detail.
7. **Application for Examination and Approval of a School Site, if applicable** — Three copies of this form must be submitted either prior to or as part of the preliminary submission when the proposed project includes the acquisition of new site. A small plan of the site must either be on this form or attached to this form.
8. **Site Variance Request, if applicable** — If the project involves a site that does not meet our minimum standards, then we would prefer to have this request submitted well in advance of the preliminary but no later than the time the preliminary submission is sent. Our minimum standards for the site of a school are: For an elementary school (grades Pre-K through 6), a three-acre base plus one acre for every 100 students or fraction thereof; or for a building housing secondary students (grades 7 through 12), a ten-acre base plus one acre for every 100 students or fraction thereof.
9. **Instructional Space Review Form** — One completed copy of this form is required for every preliminary submission involving new instructional space, whether or not the proposed new space is intended to house special education

students. The number of dedicated special education classrooms indicated on page 2 of this form, for both the existing portion of the building and the proposed new space, must include special education classrooms needed in the building for both the school district and BOCES at the completion of the construction project. In addition, the numbers of classrooms indicated in both categories must agree with those shown on the preliminary, as well as the final, floor plans.

10. **Scope of Proposed Project** - One copy of this form must be submitted either before the preliminary or as part of that submission. The appropriate documentation to prove the determination in accordance with the State Environmental Quality Review Act (SEQRA) must be included with this form.
11. **State Historic Preservation Office (SHPO) notification, if applicable** — One copy of the correspondence sent by or on behalf of the district to notify SHPO concerning this project should be sent as part of the preliminary submission if the project is for a proposed new facility or work which involves a building that is at least fifty years old.
12. **Calculation of Building Aid Units (BAU), if available** — If the district or its architect/engineer of record has calculated the expected BAU for the project, it would be very helpful to the project manager in the Office of Facilities Planning to receive a copy of those calculation sheets as part of the preliminary submission. There is a Building Aid Units Calculator available on our web site to help in calculating the BAU.

After the project manager has reviewed the preliminary submission and calculated the BAU, he or she will contact the architect or engineer of record with the results. The architect/engineer of record can then advise the district as to whether or not all estimated costs are covered by the BAU. If a formal review is completed by both the project manager and an architect in the Office of Facilities Planning for the preliminary, then a Notice of Approval of Preliminary Plans will be sent directly to the district indicating the BAU to be used for the project as well as any educational or construction/mechanical exceptions that would require corrections before, or as part of, the final submission documents.

Finally, it is extremely important to remember that every document sent as part of a preliminary or final submission should have at least the district's name and the 15-digit project control number on it.

Building Permit Process

ATTACHMENT B

Site Reviews

Under certain circumstances, separate site review packages may be submitted in advance of final plans and specifications for projects involving the construction of significant new space, such as new buildings or very large additions to existing buildings (i.e., 50,000 square feet or more). The district must be able to clearly demonstrate for us that the separate site submission will benefit the district substantially by saving both time and money. The procedures to be followed for “site work only” submissions were designed so that school districts could complete site work associated with projects involving large amounts of new building space in a more timely fashion and perhaps even prevent the loss of an entire construction season.

One project control number is assigned to each new building or addition project even when two submissions are going to be made — one for site work only and one for the rest of the construction project. Before submitting the “site work only” portion of the project, the district must do the following things:

1. Contact the appropriate project manager in our office and discuss the need for a separate site package and obtain approval to submit it.
2. Complete the SEQRA process for the entire project (site work and construction work).
3. Obtain voter authorization for the entire project.
4. Send a complete preliminary submission to the project manager for the construction portion of the project and allow sufficient time for the preliminary to be reviewed before submitting the “site work only” package.
5. Provide written justification to the project manager that clearly demonstrates how this procedure will benefit the district in terms of cost effectiveness and saving critical construction time.

The actual site review submission must include the following items:

1. Plans and specifications signed and sealed by the architect/engineer or record, with the standard certifications to applicable codes. The specifications must also contain the usual boiler plate items required for public bidding—prevailing wage rates, non-collusive certification and equivalency clause.

2. Letter notifying the local highway authority of anticipated effects on the entrances and exits to public highways, the need for temporary entrances or exits, and the effect on the storm drainage system.
3. Letters certifying that (a) no new asbestos-containing building materials will be used in the construction, and (b) the work will **or** will not involve any known or suspected asbestos-containing building materials *as evidenced by bulk or destruct testing*. If asbestos abatement is expected to be involved in the work, then a copy of the asbestos designer's license showing the individual's picture and expiration date must be included in the submission.

After the project manager determines that the submission is complete, it would be put into our system for review and approval by our architects and engineers, assigned a 6-digit review number with the letters "SR" after that number. Upon approval, a letter will be sent to the district with a Building Permit.

When the final plans and specifications are ready to be submitted for the same project, we would follow the same procedures as outlined in this booklet for final submissions. The only difference is that a new review number would be assigned without the letters "SR" after those 6-digits. We will combine the previously approved "site review only" submission with the final submission documents. (Note: The final submission should **not** duplicate the site work already reviewed and approved by our office but should simply refer to that work, if applicable.)

Building Permit Process

ATTACHMENT C

Discovered Buildings

A “discovered building” is any building constructed on school district property without first obtaining approval from the Commissioner of Education and a Building Permit from the Office of Facilities Planning. Most “discovered buildings” are identified by the fire inspector hired by the school district to complete their required annual fire inspections of every building owned or used by the district.

We understand how a small storage shed could be erected on district property without the knowledge of at least one of the district’s officials. However, the majority of “discovered buildings” brought to our attention are actually manufactured buildings (i.e., sometimes referred to as relocatables, portables, or modulares) used as classrooms or administrative offices, and it does not seem logical or reasonable that those facilities could be constructed and used without the knowledge of the district’s Board of Education or Superintendent of Schools.

Occupying or using any buildings without first getting a valid Certificate of Occupancy (C.O.) is not only illegal but is potentially dangerous to the occupants. It also places substantial liability on the district, the Superintendent and the Board of Education. In fact, the Superintendent of Schools could lose his/her credentials and the members of the Board of Education could be held personally liable under such circumstances. We realize that the districts today face significant time and financial constraints, but we must insist that the districts comply with legal requirements regarding all capital construction.

In general, a district will make the initial contact to our office when there is some type of capital construction work being contemplated. However, in the case of “discovered buildings,” we often find out about them through the fire inspection process and we may then take the initiative in establishing projects without requiring a Letter of Intent form from the district. On the other hand, it is incumbent upon the district to send us an LOI form as soon as it is brought to the attention of one of the district’s officials that there is a facility on their property or being used by the district that does not have a valid C.O. from our office.

Once a 4-digit building number is assigned by our Fire Safety Unit to a “discovered building,” we will set up a project and send a letter to the district informing them of the 15-digit project control number, the name of the building as it appears on our records, the name of the project manager assigned to that project, and instructions as to what forms must be included in the submission to obtain a C.O.

The following items are required for each discovered building project:

1. **Request for Approval of Use of a Facility (form FP-AU)** — Two completed copies (front and back) of the form.
2. **Fire Safety Report** — One copy, with all parts appropriately completed and with no non-conformances.

3. **Certification by an Architect or Engineer** — The district must have an architect or engineer who is licensed by the State of New York certify in writing (usually by letter) that the building complies with all applicable provisions of the New York State Uniform Fire Prevention and Building Code.
4. **Architectural-quality floor plan(s)** — One copy, showing corridors, stairs, walls, door openings and swings, windows, room uses, design loads, and elevations, along with all dimensions.
5. **Architectural-quality site plan** — One copy, showing the total property and indicating the relative location of buildings, streets, roads, parking areas, walks, and fire hydrants.
6. **Asbestos**—One copy of a completed AHERA management plan, Form #5, for the building or other substantiation that the building does not have any asbestos-containing building materials (ACBM) that would pose a health hazard to the occupants of the facility.

If the “discovered building” is a manufactured building and is to be used as occupied space, then the following items must also be included in the submission:

- As-built drawings (plans) and specifications, signed, sealed and certified by an architect or engineer, who is licensed by the State of New York, as to all appropriate codes (New York State Uniform Fire Prevention and Building Code, New York State Energy Conservation Construction Code, and the building standards of the New York State Education Department).
- Certification by the architect or engineer, the Superintendent of Schools and/or the District Superintendent, as appropriate, and the President of the Board of Education that the building does not contain any ACBM.
- Substantiation that the required inspections were done at the appropriate times during the actual construction of the building.
- A completed copy of the Certification of Substantial Completion form.
- A completed Structural Responsibility Checklist form.

In September 1999 we added the additional requirements for “discovered buildings” that were actually manufactured buildings to be used for instructional space so that we could more effectively safeguard the potential occupants of these types of facilities. In essence, the additional items outlined above require that this particular type of “discovered building” will have to undergo virtually the same level of scrutiny by our technical staff as any other proposed new building would receive before we would issue a Building Permit.

Building Permit Process

ATTACHMENT D

Temporary Quarters (Leased Space)

A school district or BOCES must have a valid Certificate of Occupancy (C.O.) from our office in order to legally use or occupy any leased space, whether it be on or off of the property owned by the school district. We commonly refer to the request for a C.O. to use leased or rented space in a facility as a Temporary Quarters (TQ) project.

Most TQ projects are not eligible for Building Aid. The one exception is when the district is going to lease space off of the district's own property to be used for instructional purposes. Under certain circumstances this particular type of TQ project is eligible for Building Aid based on the lease payments. We have an entire booklet dealing with this kind of project and it is available on our web site (www.emsc.nysed.gov/facplan/). The booklet is entitled, *Instruction Guide for Lease Approval and Building Aid, Public School Districts outside of New York City, Leased School Buildings and Facilities Located Off School Property*. It delineates all of the information needed to determine whether or not the proposed space to be leased meets the guidelines for receiving Building Aid and the steps that must be taken to proceed with a project of this nature.

As for all of the other TQ projects, the district would fax us a completed Letter of Intent (LOI) form entitled, "Leased Space or Discovered Building," which is also available on our web site and would follow the directions given in our letter of response to the LOI.

In general, the directions are the same as those set forth in ATTACHMENT C for Discovered Building projects. The basic form used for submitting TQ projects is the "Request for Approval of Use of a Facility," form FP-AU, and the items specified under #6, Section A, 1. LEASED EDUCATIONAL SPACE, LEASED SPACE, OTHER must be sent in as a single package for review and approval prior to the district signing any lease to occupy or use a facility that is not owned by the district. The only difference is that instead of submitting one copy of a certification by an architect or engineer licensed by the State of New York certifying that the whole building, as well as the space being used, complies with all applicable provisions of the Uniform Fire Prevention and Building Code, the district may choose to submit one copy of a current Certificate of Occupancy for the facility that was issued by the local code enforcement agency.

The exception to using this procedure is when a district leases a manufactured building(s) that is placed on the district's own property. Instead of using this process, the district must treat this type of situation as a manufactured building project and there is a specific LOI form on our web site to accommodate these projects. That LOI form is entitled, Manufactured Building (Relocatable/Portable). More specific directions for this type of project can be found under ATTACHMENT E.

Building Permit Process

ATTACHMENT E

Manufactured Buildings (otherwise known as Relocatables, Modulares, or Portables)

When a district or BOCES wants to have a manufactured building put on their own property for use by the district, the district must send an LOI specifically designed for this type of project to the Office of Facilities Planning. We prefer that LOI forms are faxed rather than mailed to us. There is an LOI form available on our web site (www.emsc.nySED.gov/facplan/) that is specifically designed for this type of project. It is entitled, Manufactured Building (Relocatable/Portable).

Although many people refer to these manufactured buildings as “relocatables,” “portables,” or “modulares,” we feel that the more correct term is “manufactured building” since they are usually manufactured off site and must be properly sited when brought onto the district’s property. In essence, they must really be treated as a “new building” when located on the district’s property, whether or not they are purchased or leased.

Since we treat them as new buildings, they must meet the same requirements as any other new building, including the requirements of the State Environmental Quality Review Act (SEQRA). The specific instructions to apply for a Building Permit and Certificate of Occupancy for any “new building” to be constructed on school district property for use by the district are included earlier in this booklet.

The only thing which is different about manufactured buildings rather than “brick and mortar structures” is that the number of manufactured buildings and the way they are configured in relationship to each other will determine the number of projects to be established since our project control numbers are building specific. For example, if the district wanted to purchase or lease four manufactured buildings for use on one site that they own, that could represent anywhere from one to four separate projects. If all four were clustered together, that would be one project and considered to be one building. If all four were sited an acceptable distance from one another, that would represent four projects (i.e., four buildings). If they sited the four units so that sets of two each were clustered together, that would represent two buildings and, hence, two projects. If, however, the district decided to attach all four units to an existing building on the same site, then there would only be one project involved and it would be considered an addition to that existing building rather than a project involving a totally new building.

It is important to note that manufactured buildings purchased and sited on district-owned property to be used by the district for instructional purposes may be eligible for Building Aid, but leased manufactured buildings sited on school district property are never eligible for Building Aid.

Building Permit Process

ATTACHMENT F

District-wide Projects

District-wide projects are projects that will involve the same type of capital construction work in all or a majority of the district's buildings **and** the nature of that work is such that it will connect the buildings in some way, such as a telephone system. There is a Letter of Intent (LOI) form available on our web site (www.emsc.nysed.gov/facplan/) to accommodate this type of project and it is entitled simply, District-Wide. The LOI does require a listing of all of the individual buildings that will be included in the specific district-wide project, by the names of the buildings and their respective 4-digit building codes (i.e., as shown on their Certificates of Occupancy).

The requirements for submitting this type of project are the same as for reconstruction projects that were outlined previously in this booklet.

Building Permit Process

ATTACHMENT G

Capital Construction that does not require a Building Permit

There are certain instances in which a Building Permit is not required. In these specific instances, the Board of Education is responsible for ensuring that the work conforms to all applicable laws and regulations.

The following types of projects do **not** require a Building Permit:

- Pure site work — Doing simple site work such as earth moving, finished grading, planting, fencing, and paving would not require a Building Permit. (Note: If the site work will involve something that does require a Building Permit, such as lighting a ball field, then a Building Permit would be required for the project. Irrigation projects must also be submitted to us for approval and issuance of a Building Permit. Site development that is going to be done in conjunction with a construction project involving altering existing buildings or creating new building space must be submitted as part of the whole project to be reviewed by our office and to be issued a Building Permit.)
- Playground installations—Installing pre-engineered, factory-built playground equipment does not require a Building Permit. However, if a playground project involves on-site construction of various features and structures, then a Building Permit would be required.
- Bleacher and grandstand projects that involve only the installation of pre-engineered, factor-built equipment would not require a Building Permit. This means that the work would basically consist of only excavating postholes and pouring concrete bases. If the work involves any enclosed areas as part of the bleachers or grandstand, such as a press box, concession stand, or storage rooms, then the project would require a Building Permit.
- Small buildings or storage structures that are less than 350 square feet and do not include any mechanical systems do not require a Building Permit. It is extremely important to note that even for those such buildings and structures that do not require a Building Permit to be constructed or sited on district-owned property, the district must follow procedures established for “discovered buildings” to obtain a valid Certificate of Occupancy before actually using these buildings or structures. The Board of Education is responsible for ensuring that these buildings or structures comply with all applicable laws and regulation for siting purposes and that each such

building or structure shall have at least one door with appropriate exiting hardware that can be operated from within the space.

- Special structures, such as pre-engineered flag poles, monuments, and towers that are less than 100 feet in height do not require a Building Permit. If these structures exceed 100 feet in height, they will require a Building Permit. In addition, the Board of Education always remains responsible for ensuring that any structures placed on district-owned property comply with all laws and regulations and that they do not pose a hazard to their employees or to the general public.

If there are any questions as to what work will or will not require a Building Permit, please call the Office of Facilities Planning (518 474-3906) and discuss the proposed project(s) with a project manager.

It is imperative to remember that whether or not a Building Permit is required, all work must conform to the applicable provisions of current laws and regulations governing capital construction.

Building Permit Process

ATTACHMENT H

Mobile Instructional Units

A “mobile instructional unit,” commonly referred to as an “MIU,” is actually a vehicle that has been equipped for use as an instructional space. Very few districts use these units anymore due to the obvious inherent danger in using a vehicle for student occupancy.

If your district or BOCES is considering the use of an MIU, please contact a project manager to arrange for the project control number to be set up for the project. Although we have not received such a request in many years, we do still have procedures for approving such vehicles.

The form used as the basis for this approval is the Request for Approval of Use of a Facility (form FP-AU). On page one, item 4 of the FP-AU, there is a place to check the Type of Facility as an MIU. Under that same item there is a reference to guidelines that were issued by our Department on January 27, 1986 regarding the approval requirements for MIU’s and a place to enter the New York State vehicle identification number. The guidelines are still in effect and can be obtained by contacting the Office of Facilities Planning (518 474-3906). On the back of the FP-AU form under item #6, section A.2 there is an outline of the required documents for this type of project. They are the same documents as required for a leased space (or Temporary Quarters) approval with two exceptions:

1. The certification in this type of project must be by the manufacturer of the MIU, or in the case of a converted existing vehicle, by the Superintendent of Schools and an architect or engineer licensed by the State of New York. That statement must certify that the vehicle conforms to our Department’s January 27, 1986 Guidelines for the Acquisition and Use of Mobile Instructional Units.
2. No site plan is required since an MIU is intended for use in a variety of locations.

We would strongly recommend that you speak to your attorney regarding the liability involved in using a MIU and perhaps contact someone else who has used these units before deciding to move forward with a request to approve a vehicle to be used for instructional space.

Building Permit Process

ATTACHMENT I

Energy Performance Contracts

When school districts or BOCES want to enter into an Energy Performance Contract (EPC), they must first obtain a Building Permit from our office if any of the work to be done under the provisions of that contract will include capital construction work.

The main difference between a capital construction submission for reconstruction and one for an EPC is that the EPC does not need to be authorized by the voters but instead is authorized by the date the Board of Education made a formal resolution to enter into this type of arrangement.

The process for establishing an EPC project is the same as that for reconstruction projects outlined earlier in this booklet. In fact, the final submission documents required for an EPC project are the same as those for a reconstruction project with the following exceptions:

1. Since EPC projects are not publicly bid, EPC specifications do not have to include the non-collusive certification or the equivalency clause.
2. Certification must be provided by the school district or BOCES that the EPC was procured pursuant to a request for proposal (RFP) process in accordance with the district or the BOCES procurement policies.
3. Certification must be provided by the architect and/or engineer of record that he/she is free from financial interest in the energy performance contractor which would conflict with the proper completion of the audit and design work associated with the EPC, and that full disclosure has been made to the district or BOCES detailing all financial compensation received from the energy performance contractor.
4. Certification must be provided by the energy performance contractor that:
 - a. The energy performance contractor has guaranteed recovery of contract costs from energy savings realized by the district or BOCES during the term of the EPC. The term shall not exceed 18 years or the useful life of the equipment being installed, whichever is less.
 - b. The measurement and verification techniques for determining cost savings will be performed in accordance with the "North American Energy Measurement and Verification Protocol," March 1996.
 - c. Any State Building Aid attributable to such project has been excluded in determining cost savings and the payback period under the EPC.

5. A fully signed contract between the energy performance contractor and the district or BOCES must be provided.
6. The interest rate applicable to the EPC and the length of the borrowing must be provided.
7. An Energy Audit must be provided that includes the following provisions:
 - a. Description of the existing equipment.
 - b. Description of each energy conservation measure.
 - c. Detailed breakdown of the energy savings and the cost savings.
 - d. Cost of each conservation measure.
 - e. Useful life of each energy conservation measure.
 - f. Simple payback period.

All other requirements for SEQRA, and SHPO, if appropriate, as well as the forms and letters remain the same as those that need to be submitted for reconstruction projects.

Building Permit Process

ATTACHMENT J

Emergencies Involving Capital Construction

Building Permit Process

ATTACHMENT K

Site Acquisition Projects

Building Permit Process

ATTACHMENT L

Acquisition of an Existing Building

Building Permit Process

ATTACHMENT M

Bus Garages

Building Permit Process

ATTACHMENT N

Public School Public Libraries

Building Permit Process

ATTACHMENT O

Big City School Districts